

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	Criminal No. 14-40028-TSH
JAMES MERRILL,	)	
	)	
	)	
Defendant	)	
	)	

**REPORT IN LIEU OF THIRD INTERIM STATUS CONFERENCE  
PURSUANT TO LOCAL RULE 116.5 (B)**

**April 13, 2015**

Hennessy, M.J.

A fourth Interim Status Conference was scheduled in the above-captioned case for April 13, 2015 in Worcester. However, on April 10, 2015, Counsel for the United States and Defendant James Merrill filed a status report that, coupled with the complex case designation this case has received and the voluminous discovery this case involves, obviates the need for a conference. Accordingly, the court has cancelled the fourth Interim Status Conference. Pursuant to Local Rule 116.5(b), and using the numeration of matters listed therein, I report as follows:

**Local Rule 116.5(b)(1) through (4)**

The United States and Defendant continue to cooperate in the production of the voluminous documentary discovery in this case. Since the February status conference, the United States has produced some 45 gigabytes of information including information gathered pursuant to a search warrant from an internet service provider and the contents of an email account belonging to Defendant. The United States is working with Brazilian law enforcement

authorities and anticipates producing information to Defendant from such authorities. The United States has further identified in the joint status report discovery that remains to be produced, including discovery that is being prepared in a reviewable electronic format that allows Defendant to use search terms to review these documents.

Defendant will need additional time to review the discovery that has and will be produced to determine whether discovery requests will be necessary. The parties anticipate the need for protective orders and will seek such orders as the need for them may arise.

**Local Rule 116.5(b)(5) through (7)**

Given the posture of discovery and Defendant's need to review it as it is produced, it is too early to set reliable schedules for motion practice, expert witness disclosures, and a report on whether Defendant Merrill will raise defenses of alibi, public authority or insanity. The court will take up these matters at a future interim status conference.

**Local Rule 116.5(b)(8)**

The parties agree that the period from Defendant's first appearance on the case through the April 2015 Interim Status Conference is excludable from the time in which trial of this case must commence. The parties further agree that the period from the fourth Interim Status Conference through a further Interim Status Conference that I have set for June 12, 2015 should be excluded under the interest of justice provision of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A). I will issue an order excluding such period based on the complex case designation this case has received and the matters discussed in the Interim Status Report. It is apparent that a continuance that allows the United States to complete the production of discovery and allows Defendant the opportunity to review this discovery serves the interests of justice. No

time is chargeable against the statutory speedy trial clock. See Order of Excludable Delay entered on this date.

**Local Rule 116.5(b)(9)**

It is too early in the case to report on meaningful plea discussions.

**Local Rule 116.5(b)(10)**

A fifth Interim Status Conference will take place in this case on Friday, June 12, 2015 at 2:00 p.m., in Courtroom #1, Fifth Floor, Donohue Federal Building, 595 Main Street, Worcester, Massachusetts. Counsel are invited to appear by telephone if that is more convenient. If any counsel wishes to appear by telephone, he or she is to contact Lisa Belpedio before the conference and provide her with a landline telephone number at which counsel can be reached.

/s/ David H. Hennessy

David H. Hennessy

United States Magistrate Judge